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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT

(Butte)

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THE PEOPLE,

Plaintiff and Respondent,

v.

RONNIE LEVON EDWARDS,

Defendant and Appellant.

C085320

(Super. Ct. No. 096902)

Ronnie Edwards was admitted to Coalinga State Hospital (Coalinga) in 2009 as a sexually violent predator (SVP) and confined for an indeterminate term. He subsequently filed a petition for release, asking the trial court to find probable cause that his mental disorder had sufficiently changed and that he was no longer a danger to society, and based on that probable cause determination to schedule a trial on the matter. (Welfare and Institutions Code section 6605.)<sup>1</sup> The trial court determined Edwards failed to establish probable cause and that he is not entitled to a trial on the matter.

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

Edwards now challenges the trial court's determination. We will affirm the trial court's order.

### BACKGROUND

We summarize the background from this court's prior decision in this matter.

In 1974, Edwards entered a house armed with a gun, forced a victim to orally copulate him, and attempted to rape her after threatening to kill her. He was convicted of sexual perversion and sentenced to 3 to 15 years in prison. Later, in 1979, Edwards lured another victim to a house under pretense and raped her. He showed the victim a blade or knife and threatened to slit her throat. Edwards was convicted of rape and assault with a deadly weapon and sentenced to 12 years in prison. Moreover, in 1987, Edwards raped an additional victim, threatening to cut her with a knife when she resisted. He was convicted of forcible rape with enhancements for the use of a weapon and sentenced to 38 years in prison. Edwards admitted there were even more victims.

Diagnosed with paraphilia, not otherwise specified, sex with non-consenting partners, Edwards was found to be an SVP within the meaning of section 6604 and was ordered confined for treatment at Coalinga for an indeterminate term.

In 2012, Dr. David S. Wildman issued a report opining that Edwards was an SVP in that he suffered from a diagnosed mental disorder that made him a danger to the health and safety of others and he was likely to engage in sexually violent predatory criminal behavior in the future without adequate supervision and treatment. Dr. Wildman reported that Edwards had not completed sexual offense treatment and had not had sufficient treatment for his diagnosed mental condition and risk factors. Dr. Wildman's 2012 report concluded that the best interest of Edwards and adequate protection of the community could not be assured in a less restrictive treatment setting, and neither conditional nor unconditional release was appropriate at that time.

Then, in 2013, the Department of State Hospitals (Department) (formerly known as the Department of Mental Health) submitted another annual report on Edwards

pursuant to former section 6605, subdivision (a). Dr. Scott J. Van de Putte opined that Edwards did not meet the definition of an SVP and did not present a serious and well-founded risk of committing a sexual assault because he lacked the symptoms of a diagnosable mental illness and had appropriately used skills learned in therapy that mitigated his risk of reoffending. The doctor said Edwards's best interest and the adequate protection of the community could be assured if Edwards was released to a less restrictive treatment setting. Although Edwards had not completed sexual offense treatment, Dr. Van de Putte said unconditional release to a less restrictive alternative treatment setting was appropriate. Dr. Van de Putte added that unconditional release within the restrictions of Penal Code section 290 was appropriate. The medical director of the Department concurred in the recommendation to release Edwards to a less restrictive environment.

Edwards filed a petition for release, asking the trial court to find probable cause that his mental disorder had sufficiently changed and that he was no longer a danger to society, and based on that probable cause determination to schedule a trial on the matter. The trial court conducted a hearing and, finding Dr. Wildman's 2012 report persuasive, found beyond a reasonable doubt that Edwards's diagnosed mental disorder remained such that he was a danger to the health and safety of others and was likely to engage in sexually violent criminal behavior if discharged. (*People v. Edwards* (March 2, 2017, C075739) [nonpub. opn.] at pp. 2-5 (*Edwards*).)

Edwards appealed, arguing among other things that the trial court should not have considered the 2012 Wildman report. (*Edwards, supra*, C075739, at pp. 1-2.) This court concluded the trial court did not abuse its discretion in considering the 2012 Wildman report, but it erred in denying the petition without following the procedure set forth in former section 6605. Accordingly, we reversed and remanded for the trial court to determine whether Edwards established probable cause, and if so, to set the matter for trial. (*Edwards*, at pp. 2, 9, 14.)

Following our remand, a new annual section 6604.9 report from the Department was filed with the trial court on May 15, 2017. The report, written by Dr. Larry Wornian with the agreement of the medical director of the Department, concluded Edwards currently met the definition of an SVP and the best interest of Edwards and the community could not be assured in a less restrictive treatment setting at the time.

Edwards did not submit additional evidence for the probable cause hearing on his original petition. The trial court found, based on its review of the file, “as it relates to this prior proceeding under former section [6605, subdivision (c)], that Mr. Edwards has failed to establish probable cause; and therefore, as it relates to that older matter, he is not entitled to trial on the matter.” The trial court also determined, based on the most recent report, that Edwards should “remain where he currently is” for additional treatment.

#### DISCUSSION

Edwards contends the trial court erred in finding his original petition did not establish probable cause.

#### A

California’s Sexually Violent Predator Act (SVPA) (§ 6600 et seq.) provides for the confinement and treatment of SVPs. (Historical and Statutory Notes, 73E West’s Ann. Welf. & Inst. Code (2010 ed.) foll. § 6600, p. 41.) The Legislature determined that a person adjudicated to be an SVP is a danger to society and should be confined and receive treatment for his or her diagnosed mental disorder, which predisposes him or her to engage in sexually violent criminal behavior as long as the disorder persists and until it can be determined that he or she no longer presents a threat to society. (*Ibid.*) The SVPA was enacted to treat SVPs and not for punitive purposes. (*Ibid.*)

An SVP is “a person who has been convicted of a sexually violent offense against one or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.” (§ 6600, subd. (a).) A “ ‘[d]iagnosed mental

disorder' includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.” (§ 6600, subd. (c).) “ ‘Danger to the health and safety of others’ does not require proof of a recent overt act while the offender is in custody.” (§ 6600, subd. (d).)

If a court or jury finds, beyond a reasonable doubt, that a person is an SVP, the person must be committed for an indeterminate term to the custody of the Department for appropriate treatment and confinement in a secure facility designated by the director of the Department. (§ 6604.) A committed person must have a current examination of his or her mental condition made at least once every year. (§ 6604.9, subd. (a).) The report must be in the form of a declaration and be prepared by a professionally qualified person. (*Ibid.*) The report must consider whether the committed person currently meets the definition of an SVP and whether conditional release to a less restrictive alternative, pursuant to section 6608, or an unconditional discharge, pursuant to section 6605, is in the best interest of the person and whether conditions can be imposed that would adequately protect the community. (§ 6604.9, subd. (b).)

If the Department determines (1) the committed person’s condition has so changed that he or she no longer meets the definition of an SVP and should, therefore, be considered for unconditional discharge, or (2) conditional release to a less restrictive alternative is in the best interest of the committed person and conditions can be imposed that adequately protect the community, the director must authorize the committed person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge. (§ 6604.9, subd. (d).)

The trial court must order a show cause hearing upon receipt of a petition for unconditional discharge. (§§ 6604.9, subd. (f), 6605, subd. (a)(1).) At the show cause hearing, the trial court can consider the petition and any accompanying documentation

provided by the medical director, the prosecutor, or the committed person. (§§ 6604.9, subd. (f), 6605, subd. (a)(1).)

The committed person bears the burden of establishing the probable cause required under section 6605. (*People v. Hardacre* (2001) 90 Cal.App.4th 1392, 1402.) The trial court must determine whether a reasonable person could entertain a strong suspicion that the committed person (1) has a diagnosed mental disorder which has so changed that (2) he or she is not a danger to the health and safety of others and (3) is not likely to engage in sexually violent criminal behavior if discharged. (*Id.* at p. 1400 [probable cause is “ ‘ “a state of facts as would lead a [person] of ordinary caution or prudence to believe and conscientiously entertain a strong suspicion” ’ ” of the fact to be proved]; see *Cooley v. Superior Court* (2002) 29 Cal.4th 228, 236, 251-252 (*Cooley*); *People v. Cheek* (2001) 25 Cal.4th 894, 897, 899-900.) The trial court must set a trial on the issue if it determines the requisite probable cause exists. (§ 6605, subd. (a)(2).)

The standard of review of the trial court’s probable cause determination in SVP proceedings is the same as the standard of review for probable cause determinations in preliminary hearings. (*Cooley, supra*, 29 Cal.4th at p. 257.) Mixed questions of law and fact, like probable cause, are examined independently, while findings of fact are examined for substantial evidence. (*Ibid.*)

## B

Following the original hearing in 2013, the trial court issued a written ruling making certain findings of fact. However, at the hearing following remand, the trial court simply found that “as it relates to prior proceedings, the Defense failed to establish probable cause and therefore is not entitled to trial.” Under the circumstances, we independently review the record.

Based on our review of the record, we conclude Edwards did not meet his burden to establish probable cause of sufficiently changed circumstances. As we concluded in our prior decision, it is appropriate to consider the 2012 report by Dr. Wildman, in which

he opined that Edwards was a sexually violent predator in that he suffered from a diagnosed mental disorder that made him a danger to the health and safety of others and he was likely to engage in sexually violent predatory criminal behavior in the future without adequate supervision and treatment. Dr. Wildman reported that Edwards had not completed sexual offense treatment and had not had sufficient treatment for his diagnosed mental condition and risk factors. Dr. Wildman's 2012 report concluded that the best interest of Edwards and adequate protection of the community could not be assured in a less restrictive treatment setting, and neither conditional nor unconditional release was appropriate at that time. According to Dr. Wildman, Edwards has a well-documented history of violent sexual offenses, his behavior persisted despite consequences, and Edwards admitted getting a thrill out of controlling others.

Defendant relies on the 2013 report by Dr. Van de Putte to establish probable cause of sufficiently changed circumstances, because Dr. Van de Putte's opinions are, in many respects, contrary to Dr. Wildman's. But both doctors agreed that Edwards had not completed sexual offense treatment. As for his diagnosis, Dr. Van de Putte opined that Edwards is a "non-paraphilic, opportunistic, criminal rapist" who does not meet the criteria for paraphilic disorders. Dr. Van de Putte also referenced changes, such as certain test results indicating a decline in Edward's sexual arousal, but Dr. Van de Putte nevertheless explained the findings were not indicative of an absence of deviant sexual interest. According to Dr. Van de Putte, with regard to Edward's ability to become sexually aroused, MSI-II results indicated there may have been more to know about Edwards than he was willing to disclose. Dr. Van de Putte indicated Edward's risk assessments were low-moderate for the Static-99R assessment instrument, and high for the MnSOST-R assessment instrument.

Having independently reviewed the record, we conclude a reasonable person would not entertain a strong suspicion that Edwards has so changed that he is not a

danger to others and is not likely to engage in sexually violent criminal behavior if discharged. The trial court did not err.

DISPOSITION

The trial court's order is affirmed.

/S/  
MAURO, Acting P. J.

We concur:

/S/  
MURRAY, J.

/S/  
KRAUSE, J.